

U.S. Serial No. 10/749,085
Attorney Docket: 25355A

REMARKS

The Applicants have carefully reviewed and considered the Office Action of 15 August 2006. In response the Applicants request the Examiner to reconsider the rejection based upon the following comments. In addition, the applicants request the Examiner to consider the patentability of new claims 31 and 32.

Claims 1-3, 14-18, 29 and 30 are patentable over
U.S. Patent 3,096,033 to Franck et al. when
considered in combination with U.S. Patent 3,583,522 to Toledo et al.

As noted by the Examiner, the Franck et al. patent discloses a ceiling panel having a main frame similar to the main frame of the present invention. The Franck et al. patent, however, fails to disclose a ceiling panel including a veil facing material containing glass fibers wherein that facing material is adhered to the main frame and the crossing members as explicitly set forth in claim 1.

In order to address this shortcoming of the teachings of the Franck et al. patent, the Examiner cites the Toledo et al patent and combines the teachings in the Toledo et al patent to support a rejection. Specifically, the Examiner notes that the Toledo et al. patent teaches that it is known in the art to form a ceiling panel out of a material containing glass fibers. The Examiner then argues that it would have been obvious to one skilled in the art to combine the teachings of the two references. The applicants take issue with this reasoning.

Specifically, the applicants believe that the Examiner has combined the teachings of the references based strictly upon hindsight: that is, the Examiner has simply used the teaching of the present application as a guide in combining the references. As noted by the Board of Patent Appeals and Interferences in the decision of *Ex-Parte Clap*, 227 USPQ 972 (Board of Patent Appeals and Interferences 1985), "... simplicity and hindsight are not proper criteria for resolving

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the issue of obviousness." Accordingly, the rejection of claim 1 is improper and should be withdrawn.

More specifically, it should be noted by the Examiner that the sale of ceiling tiles is a big business accounting for millions and millions of dollars in revenue each year. Inventors and companies are, therefore, highly motivated to develop new products for introduction into this market place. This motivation is evidenced by the records of the U.S. Patent and Trademark Office which indicate that 80 United States Patents have issued since the Toledo et al. patent referencing the terms "ceiling tile" in the title. In addition, another 108 patents have issued since the Toledo et al. patent referencing the terms "ceiling panel" in the title. Clearly, this is a very active area of product development.

It should further be noted that the Franck et al patent issued in 1963. Further, the Toledo et al. patent issued in 1971. Accordingly, over thirty-five years have passed since the issuance of the two references cited by the Examiner. Despite this passage of significant time the Examiner has been unable to find any reference indicating that the presently claimed invention was previously developed by anyone skilled in the art. This is true despite the fact that those skilled in the art are highly motivated to produce new, lightweight ceiling tile products. When considered together, the high motivation of those in the field to develop new products, the passage of over thirty-five years and the failure of the Examiner to find that one skilled in the art developed the present invention is strong evidence supporting the unobviousness and patentability of the present invention. Thus, it is believed that claim 1 as well as claims 2, 3, and 11-15 dependent thereon should be allowed.

Independent claim 16 reads on a method that substantially parallels the ceiling panel set forth in apparatus claim 1. Specifically, the method includes the steps of providing a main frame, providing first and second crossing members within the main frame, providing a veil facing material containing glass fibers and affixing that facing material to the main frame and the first and second crossing members. As noted above, the Examiner has found it necessary to combine the Franck et al. and

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Toledo et al. references in order to reject this claim. Those two references are greater than thirty-five years old and no one skilled in the art has developed the presently claimed method despite that passage of time and the existence of significant commercial profit motivation. This evidences the patentability of independent claim 16 as well as claim 17, 18, 29 and 30 dependent thereon.

Claims 1-9, 13-24 and 28-30 are clearly patentable over the
Franck et al. reference when considered in
combination with U.S. Patent 6,305,495 to Keegan

As noted above, the Franck et al. patent fails to disclose the basic concept of providing a ceiling panel with a veil facing material containing glass fibers, wherein that facing material is adhered to the main frame and the crossing members as set forth in claim 1. This failure of the Franck et al. patent has been explicitly acknowledged by the Examiner.

In order to address this shortcoming the Examiner cites the Keegan reference. The Examiner states that Keegan teaches that it is known in the art to provide a ceiling panel with a "veil-like" facing that contains glass fibers. In essence, the teachings of the secondary reference to Keegan are no more relevant than the teachings of the secondary reference to Toledo et al. discussed above. Both the Keegan and Toledo et al. references are cited for their disclosure of ceiling panels incorporating glass fibers as this is the teaching the Examiner has noted is missing from the primary reference to Franck et al.

As pointed out above, those skilled in the art have had the benefit of this teaching for over thirty-five years yet those same individuals, skilled in the art, and highly motivated to produce new products in an active and commercially profitable industry, have failed to develop the presently claimed invention. The failure of those skilled in the art to develop the presently claimed invention over thirty-five years is actually strong evidence of the unobviousness of the present invention and supports

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the patentability of the present claims. It is therefore clear that claims 1-9, 13-24 and 28-30 patentably distinguish over this art and should be allowed.

**New claims 31 and 32 include limitations providing
a basis to support their allowability**

New claim 31 depends from claim 1 and further requires that the veil facing material in the ceiling panel underlies the main frame. Such a structure is clearly not shown or suggested in the primary reference to Franck et al. wherein the framework underlies the panel material in all disclosed embodiments.

New claim 32 depends from claim 16 and recites the additional method step of providing the facing material in a position underlying the main frame. Once again it is noted that the primary reference to Franck et al. teaches away from this claimed step since Franck et al. explicitly teaches providing the main frame beneath the panel or facing material not above it. Thus it is clear that new claims 31 and 32 clearly patentably distinguish over the art and should be allowed.

CONCLUSION

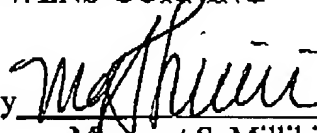
In summary, all of the pending claims patentably distinguish over the prior art and should be formally allowed. Upon careful review and consideration it is believed that the Examiner will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited.

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Applicants authorize any fees required pertaining to this response be
charged to Deposit Account 50-0568.

Respectfully submitted,
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